

HAMMERSTEIN SUED BY METROPOLITAN

Opera Company Serves Summons, Demanding That Impresario Keep Out of the Field, as He Agreed.

"GLAD OF IT," HE INSISTS

Admits Contract, but Declares It Doesn't Keep Him from Giving Advice—Says if He Is Barred Corporation Will Do the Work.

The Metropolitan Opera Company, through its counsel, served a summons and complaint on Oscar Hammerstein yesterday in a suit to enjoin him and his son Arthur from giving grand opera in New York City before April 26, 1920, in accordance with a contract entered into between the Hammersteins and Edward T. Stotesbury, of Philadelphia.

Mr. Hammerstein, who accepted service on behalf of himself and his son, declared that despite the suit, which is brought in the Supreme Court, the successor to his Manhattan Opera House, which is to be known as the American Opera House and is now building at 51st street and Lexington avenue, will open its doors to the public on the evening of November 10 at 8 o'clock.

"And that will be the beginning of a season of grand opera at the American Opera House that will last at least twenty-four weeks," he added.

Counsel for the Metropolitan said that if any such thing were attempted, pending the present litigation, a temporary injunction would be asked for restraining the Hammersteins from opening.

Oscar Hammerstein, who seemed anything but worried about the suit, laughed when he heard this and said: "I feel absolutely safe and morally justified in my action."

Glad Suit Is Brought.

He did not deny the accuracy of that part of the complaint which alleged that he empowered his son Arthur to bind him to an agreement not to enter the operatic field of Philadelphia, Boston, Chicago or New York when the Metropolitan paid something like \$1,200,000 for the Hammersteins' "business."

But he insists that they did not purchase his right to advise any one else who saw fit to produce grand opera in these cities, and, moreover, he contends that the contract not only gave him all the territory outside of the four cities mentioned in which he might produce grand opera, but that the Metropolitan, by showing in Atlanta and elsewhere, itself violated the contract.

"I'm glad they brought the suit," said Oscar. "I asked them to bring it. It cannot in any manner, shape or form interfere with my preparation for the coming opera season, for all my contracts have a clause that empowers me to transfer them to a corporation. There is only a remote possibility that the courts will decree that I must not be directly or indirectly connected with grand opera in this city, Chicago, Boston and Philadelphia. But in any event the work I started will be continued—perhaps by a corporation."

He said that while he was in the field the Metropolitan lost from \$300,000 to \$500,000 annually, but that since his retirement the Metropolitan had profited \$700,000 to \$800,000 each season.

"That profit," he added, with a laugh, "can only be found in the artistic and philanthropic ledgers of the company, which are not open for inspection."

What the Contract Says.

The papers cite that the plaintiff is not engaged in opera for financial profit; that since 1905 its income has been less than its operating expenses.

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POLICEMAN KILLS MAN

Beach Officer Also Wounds Another Assailant.

Peter McCabe, of No. 177 Davis avenue, West New Brighton, Staten Island, was shot twice through the heart and instantly killed early this morning in a scuffle with Thomas Benaza, a special officer, at the corner of Wright and Water streets, Stapleton. Edward Johnson, who, it is alleged, helped McCabe in an attack on the officer, is in the hospital, with cuts and bruises which Benaza inflicted during the fight. McCabe and Johnson had attended a picnic last night at South Beach, and after the festivities had retired, according to Benaza, to a small park, where they caused a disturbance and got a sharp rebuke from the officer. A half hour later Benaza took a car for his home, at No. 68 Hill street, Stapleton, and discovered that the two men were also on the car. The quarrel was soon resumed, and when Benaza got off and started for his home, McCabe and Johnson, he says, followed and attacked him.

The two men, Benaza said, leaped on him and bore him to the ground, beating and kicking him. Just as he felt his senses about to leave him, he drew his revolver and pulled the trigger twice. Both bullets went through McCabe's heart. Johnson, the officer said, continued the attack until knocked senseless by a blow from his revolver butt. Benaza gave himself up.

HERRICK VISITS M'COMBS

Latter Shows Satisfactory Progress After Operation.

[By Cable to The Tribune.]

Paris, July 9.—Ambassador Herrick called on William F. McCombs this afternoon at the private hospital in Neuilly, where an operation for appendicitis was performed on the Democratic national committeeman on Monday, and asked if he could do anything to make him more comfortable.

Mr. McCombs, who was very gratefully impressed by the ambassador's courteous attention, is making satisfactory progress. There are no indications of any complications, but a long rest will be needed before he will be able to get about.

SULZER TO TURN FARMER

Governor to Buy Land and Live in Canaan, N. Y.

[By Telegram to The Tribune.]

Chatham, N. Y., July 9.—Governor Sulzer has announced that on the expiration of his term of office he will purchase and occupy a farm thirty-five miles east of Albany. He has obtained a price from Henry Steurwald on one of the largest and best farms in Canaan, N. Y., and the transaction may be closed during the next few weeks.

One of the bills recently vetoed by the Governor provided for a state road to extend in the vicinity of this farm.

KISS OR BITE, FOOLS "COP"

Pretzel Pedler, However, Says He Aimed at Osculation.

Meyer Linderman, known as the king of the pretzel sellers of Tompkins Park, who is less than 4 feet high, was a prisoner in the Essex Market court before Magistrate Freschi yesterday afternoon, charged by Patrolman John Kiernan, who weighs 200 pounds, with attempting to bite him on the hand. Linderman explained that he only wanted to kiss the patrolman's hand. "I would have kissed it a thousand times if he had only let me alone," protested the prisoner.

Kiernan said he tried to serve a summons on the prisoner for selling pretzels in the park without a license. When finally arrested his prisoner made several attempts to bite him, the policeman said. On discharging the pedler of pretzels, Magistrate Freschi said:

"I think the civil service people should frame some questions so as to learn whether a prospective policeman knows the difference between a kiss and a bite."

BOY SPITTED ON ICE HOOK

Lad's Arm Pierced as He Jumps on Wagon.

Nathan Landman, nine years old, of No. 33 Madison street, jumped on the rear of an ice wagon at Birmingham and Madison streets yesterday afternoon. In leaping for the step, however, the boy missed his footing and slipped. As he was falling he threw out his arms and one of them caught on the end of an ice hook sticking out from the wagon.

The sharp point of the hook buried itself in the boy's flesh, and Nathan hung by it for a block before passersby shouted to the driver to stop his horses.

Patrolman Schmitzler, of the Madison street station, was called and he summoned an ambulance from Gouverneur Hospital. Dr. Seward responded. He took the boy to the hospital suffering from loss of blood.

ELKS IN PERIL ON BRIDGE

Thirty Face 175-Foot Drop Into River When Railing Breaks.

Rochester, July 9.—Thirty Elks attending the grand lodge reunion here narrowly escaped a drop of 175 feet into the Genesee River to-night, when a sightseeing car, on which they were passengers, crashed through a bridge railing. At the highest point the bridge is 212 feet above the river.

The accident was due to the attempt of the chauffeur to avert a collision with a runaway driven by a woman. When the big machine hit the bridge railing ten feet of the railing crashed into the river. The right front wheel of the sightseeing machine hung over the bridge and the car had to be jacked up before the party could go on.

WON'T WED, BEATEN BY SISTER, SAYS GIRL

Two Years' Feud in MacArthur Family, with Court Fights, Reaches Climax in Woman's Arrest.

ENGAGEMENT PARTY ROW

Warrant Sworn Out After Alleged Assault at Summer Hotel—Parents' Divorce Cause of Breach Among Children That Grows and Grows.

The Tatam and MacArthur families, of Great Neck and Richmond Hill, Long Island, who for two years have been busily engaged in a family feud, resulting from a suit for separation instituted in 1911 by Mrs. Mary Ann MacArthur against James MacArthur, were thrown into a further state of turmoil again yesterday when Miss Kathryn MacArthur, one of Mrs. Mary Ann MacArthur's daughters, caused the arrest of her sister, Mrs. John C. Tatam, on a charge of feloniously assaulting her in Shavertown, Delaware County, N. Y., on July 1.

One of the immediate results of this new row was a realignment in the MacArthur family, which had been about evenly divided between the father and the mother.

The latest trouble, according to Miss Kathryn's affidavit on which she obtained the warrant for Mrs. Tatam's arrest, was caused by the efforts of Mrs. Tatam to force her sister to marry Frederick W. Peters, Jr., of No. 431 Riverside Drive, New York. Mrs. Tatam, her sister says, was to give a party at her home in Great Neck to announce the engagement.

When Miss MacArthur refused to attend the party, she said, or to permit the announcement to be made, Mrs. Tatam followed her to Shavertown, where she was convalescing from an operation for appendicitis, and there attacked her, beating her into unconsciousness.

Suit by Sixty-Year-Old Wife.

When the MacArthur family troubles began in 1911, Mrs. MacArthur based her plea for separation from James MacArthur on the ground of cruelty. The case was tried before Justice Maddox, of the Queens County Supreme Court. Mrs. MacArthur giving her age as sixty, while her husband's age was given as fifty-two.

During the trial of this suit Mrs. MacArthur was asked under cross-examination if her quarrels with her husband were not chiefly concerning their daughter, Mrs. Tatam, the woman arrested in the present case, and whether Mrs. Tatam had not urged her mother to take action against her husband.

Mrs. MacArthur denied her daughter had instigated the suit, but admitted that many of her discussions with her husband had to do with Mrs. Tatam.

The burden of these discussions, it was said, was a difference of opinion in the matter of Mrs. Tatam's marriage to John C. Tatam, of the cotton brokerage firm of D. O. Tatam, No. 259 Church street, Manhattan. Miss MacArthur was engaged at the Tatam home as a companion to Tatam's first wife, Mrs. Louise Tatam.

This first wife died on February 20, 1910, being buried on February 22 in Woodlawn Cemetery. Two days after this Tatam married Miss MacArthur at Greenwich, Conn., despite the father's objections. From this dated the beginning of the MacArthur family troubles.

Justice Tries to Make Peace.

While the MacArthur separation suit was in court Justice Maddox attempted to bring about a reconciliation, alluding to their previous thirty-two years of married life.

"You people are old enough to know better," he said. "After all these years of married life you should go into a room and arrange your differences. If any of your six children tries to put barriers in the way of your reconciliation, all the others should combine against that one."

MacArthur at that time was eager for a reconciliation, but the wife was not, and the case went on. The second day of the trial matters became more embroiled than ever. When Tatam and the six MacArthur children came into court during a recess they all began to quarrel. MacArthur seized Kathryn, who was then on her mother's side, about the waist and hurled her several feet across the room.

Justice Maddox rushed back into the room, which was in an uproar, and, with the aid of court officers, separated the factions, ordering them to sit on opposite sides of the room.

Failing to bring about a reconciliation, Justice Maddox granted Mrs. MacArthur an interlocutory decree of separation. In the family alignment which then came MacArthur's three sons and his daughter, Elizabeth, went to live with him, while Kathryn and Mrs. Tatam threw in their lot with Mrs. MacArthur, going to live at the Tatam home at Great Neck.

Husband Gets a Reno Divorce.

Although at the time of the separation MacArthur was eager for a reconciliation, he later went to Reno, Nev., where he established a residence and obtained a divorce from his wife on the ground of desertion. He married again soon afterward.

Until yesterday's row the family remained divided as it had been from the time of the separation suit. But as

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THIRD SUSPECT SOUGHT IN MURDER OF GIRL

Mysterious Man Seen Near Where Alice Crispell's Body Was Found.

Teeth Marks on Her Face

Authorities Will Attempt to Learn Whether the Imprints Were Made by Suitor Held as a Witness.

[By Telegram to The Tribune.]

Wilkes-Barre, Penn., July 9.—The mystery in the supposed murder of Alice Crispell, whose body was found floating in Harvey's Lake, was deepened to-day, when the state police found a man who saw a woman answering the description of Miss Crispell and two men near the lake on the night of July 4, within a short time before the girl was last seen alive.

Thinking that marks on the arms and sides of Miss Crispell's face may have been made by a man's teeth, Dr. P. J. Higgins, who performed the autopsy, announced to-day that he would visit Herbert Johns, the girl's suitor, who is held in jail as a witness, and would examine his teeth. It is likely that imprints of Johns' teeth will be made and compared with the marks on the girl's body.

The new witness found by the state police to-day is Zephaniah I. Reese, an automobile dealer, of Plymouth. Reese called State Trooper James Freeman to his office in Plymouth to-day and told of seeing a mysterious man in a dark suit crouching on a pile of logs near the boat landing where the girl's body was subsequently found.

He also told of seeing a man in a gray suit and a girl in a blue dress near the lake landing, and from the way in which the girl was stumbling along the road and the manner in which her escort tried to help her Reese believed the girl was either drunk or drugged.

Reese had an automobile at Harvey's Lake on the Fourth of July and took parties on trips about the lake shore. At 11 o'clock at night he received a call to Lehman Center, a few miles distant, to tow in a broken machine. When he left the hotel Alice Crispell and Johns were in the café with several of their friends.

Mysterious Man Seen.

Reese set out along the lake front road, and as his auto came to the boat landing the light of the lamps revealed a man in a dark suit crouching on a pile of logs. Reese went on, and about 11:30 o'clock returned over the same route. When nearing the boat landing on the return trip Reese turned his lamps on the same pile of logs, and there he saw the same man in a dark suit in a crouching position.

He travelled but a few yards before he came upon a man in a gray suit leading a girl in a blue dress. The girl was walking with considerable trouble and her escort was trying to help her along. Reese passed without saying anything and soon returned to the lake and later went to his home in Plymouth.

Herbert Johns wore a gray suit on July 4 and Miss Crispell wore a blue dress. The place and the time where Reese saw the couple are the same as fixed by Johns when he said he parted with the girl to leave her walk three miles over a lonely country road.

County detectives have been at work to-day trying to find the mysterious man in the dark suit. They have been unable to find any one who will answer the meagre description given by Reese, but they are still at work on the theory that the man might be a jealous lover.

Reese will appear before the Coroner's inquest to-morrow night to tell his story. Parts of his story do not tally with the story of Johns, who from his cell in the county jail to-day declared that he had taken a few drinks of wine at the hotel and that other members of the party had a few drinks.

Miss Crispell, he says, had less than any one, and she did not have enough to make her the least bit intoxicated. Johns still sticks to his story, and some of his friends have claimed that Miss Crispell was subject to epileptic fits. This story is flatly denied by the girl's parents.

The girl's funeral will be held to-morrow.

FIGURES IN UNUSUAL ASSAULT CASE.

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FEDERAL PROSECUTOR TO INVESTIGATE LAMAR

Instructed by Department of Justice to See if Criminal Case Can Be Instituted.

MAY INVOKE OLD RULING

Impersonation of Public Officer Is Illegal, and Opinion in 1882 Called Congressional Government Official.

Henry Snowden Marshall, United States District Attorney, has received instructions from the Department of Justice at Washington to investigate the records of the Lamar-Lauterbach case and ascertain if there is any federal statute governing it. Mr. Marshall is of the opinion that if Lamar is prosecuted it will be under Section 32 of the Criminal Code of the United States, which provides for the punishment of those who impersonate public officers. As he has not yet received the complete minutes of the proceedings of the Senate committee which examined Lamar and Lauterbach Mr. Marshall is as yet unable to state whether or not the evidence submitted will show that the statute has been violated. If the District Attorney finds that the law has been broken the matter will go to the grand jury.

Section 32, under which Lamar may be indicted, is as follows:

"Whoever, with intent to defraud either the United States or any person, shall falsely assume or pretend to be an officer or employee acting under the authority of the United States, or any department, or any officer of the government thereof, shall take upon himself to act as such, or shall in such pretended character demand or obtain from any person or from the United States, or any department, or any officer of the government thereof, any money, paper, document or other valuable thing, shall be fined not more than \$1,000, or imprisoned not more than three years or both."

Regarding the doubt as to whether this statute would include members of Congress, it is announced that District Attorney Marshall has discovered an opinion handed down on July 21, 1882, by Attorney General Benjamin Harris Brewster, stating that "unquestionably the station of members of Congress (Senators or Representatives) is a public officer, taking these terms in a broad and general sense, and the incumbent thereof must be regarded as an officer of the government in the same sense."

[From The Tribune Bureau.]

Washington, July 9.—A grand jury investigation of the operations of David Lamar, "the wolf of Wall Street," and Edward Lauterbach, "the Lamar sheep," as unfolded before the Senate lobby committee, was virtually ordered to-day by the Attorney General, as foretold in The Tribune this morning.

It is believed that Lamar is liable to prosecution for his confessed impersonations of Representatives Palmer and Riordan, even though there is an absence of evidence at this time to prove that there was any money consideration. There is also the possibility that a charge of conspiracy against both Lamar and Lauterbach may be preferred. Another charge which may be attempted fraud, but Mr. McReynolds said to-day that the law regarding that is rather obscure.

Both Lamar and Lauterbach waived immunity when they appeared before the Senate committee, and their testimony, therefore, is available to the Department of Justice in connection with the possible criminal prosecution. It is possible that the two men may appear before the grand jury in New York, provided, of course, that they waive immunity. The opinion of the Department of Justice officials, however, is that the testimony of Representatives Palmer and Riordan and Mr. Ledyard will suffice to prove the impersonations.

REPLY TO JAPAN THIS WEEK.

[From The Tribune Bureau.]

Washington, July 9.—The Secretary of State announced to-day that the American reply to the last note of the Japanese Ambassador on the California land question would be sent before the end of the week. He remarked that the note answered the points raised by the Japanese government.

TAMMANY PLANS COUNTER ATTACK TO SAVE COHALAN

Will Appeal to District Attorney Whitman to Prosecute Connolly for Perjury in Complaints.

BASED ON HIS ADMISSION

Friends of Accused Justice Hope to Shatter the Case Against Him Enough to Justify Themselves in Exonerating Him.

POLITICS IN EXAMINATION

Cohalan's Counsel Questions Connolly About His Activities as a Fusion Committeeman in 1909—Fails to Discredit His "Percentage Letter" Story.

[From a Staff Correspondent of The Tribune.]

Albany, July 9.—Friends of Supreme Court Justice Daniel F. Cohalan on the combined Senate and Assembly Judiciary committees planned late to-night to institute a counter attack in his behalf, which, they believe, will shatter the case against him badly enough so that they can contend they would be justified in exonerating him.

This move, which was developed only within the final hour of the cross-examination of John A. Connolly, the justice's accuser, in the Senate chamber to-night, is to make an appeal to District Attorney Whitman to prosecute Connolly for perjury, and to base that appeal on the ground that Connolly admitted on the witness stand that he had sworn falsely in the original complaints of his contemplated actions against Cohalan for the return of the \$3,940.55, and later, of the \$4,000 note, about which the case centres.

Such a step, under the initiative of the Tammany members of the committee from New York City districts, would carry with it a complicated cross-cross of politics, but both the Tammany members of the committee here and John B. Stanchfield, Justice Cohalan's lawyer and prominent in the Tammany organization, frankly and openly pulled politics into the case in questioning Connolly to-night.

Brings in Politics.

Mr. Stanchfield established, first, the fact that Connolly served on the fusion committee of 1909 in the New York City election. He went along from that to Connolly's moves in 1910, when he was seeking a Democratic appointment as corporation tax commissioner. He spoke of Cohalan's service as Grand Sachem of Tammany, and asked Connolly if he had seen demand for the return of the \$3,940.55 in 1909 was not predicated on the belief that he held the whip hand over Cohalan because of the latter's position in Tammany as opposed to Connolly's temporary position in the fusion committee.

Connolly's direct evidence as to the 55 per cent payments to Cohalan remained at the end of his second day on the witness stand practically untouched, and while Mr. Stanchfield badgered the witness to a considerable extent, he could do nothing to change the aspect of that direct charge.

The counter move of attacking Connolly on the ground of perjury opened up as a possibility at the night session, when Mr. Stanchfield began to heckle the witness on the suit he threatened against Justice Cohalan in 1909, when he sought the return of the \$3,940.55 from the justice.

The lawyer brought up the ledger of the Victor Heating Company, from which the half page, said to have contained the Cohalan account, had been cut out, and after long verbal fencing with Connolly, got the admission from the witness that the entire account had been written in the ledger in January, 1900, although the entries ran back to 1904 and ended in 1906.

The letter which Connolly's lawyers sent to Justice Cohalan on January 12, 1900, came up next, and the statement "put upon the books in January, 1900, showing the alleged indebtedness of Cohalan to the Victor Heating Company," was analyzed by the lawyer.

"If you paid Cohalan these moneys pursuant to an agreement you made with him, in which you promised to pay him those amounts, and did pay him those amounts, and afterward put upon your books, two or three years later, a statement that he was indebted to you for that amount, that statement was false, incontestably, wasn't it?" Mr. Stanchfield demanded.

Doesn't Like "False."

Connolly squirmed and twisted around, trying to get away from Mr. Stanchfield's analysis. The baldness of the word "false" bothered him, but the lawyer insistently repeated it.

"You are under oath," said Mr. Stanchfield. "I ask you again if that statement was predicated upon a false account that you put in your ledger?"

"It was predicated upon the false account that was placed in the ledger," Connolly finally answered, and Mr. Stanchfield rested on that phase of the matter for a few moments.

Counsel went back to the question of perjury later by repeating from the record the final question put by Mr. Kellogg, and Connolly's answer to the